

REMARKS

Claim Amendments

Claim 1 has been amended by specifying a particular method of selecting the wavelengths to be imaged. The method of selecting the wavelengths is via an electro-optical tunable filter which will select a particular wavelength for transmission to the imaging sensor. The method of selecting the wavelengths to be transmitted finds support in paragraph [49] of the specification. No new matter has been added.

Anticipation Rejection

Claims 1, 2, 5, 6, 9, 10, 13, 14, 17, 18, 25, 26, 29, and 30 stand rejected as allegedly anticipated by U.S. Patent No. 5,689,333 to Batchelder ("Batchelder") as evidenced by Rigler(US 2002/0114224). In light of the amendments made above, Applicant respectfully requests that the rejection be withdrawn as Batchelder as evidenced by Rigler does not disclose the method as now claimed.

Claim 1, from which Claims 2, 5, 6, 9, 10, 13, 14, 17, 18, 25, 26, 29, and 30 all ultimately depend, now recites "the second wavelength filtered by an electro-optical tunable filter ,... the third wavelength filtered by an electro-optical tunable filter"

Batchelder does not disclose an electro-optical tunable filter for use in filtering any wavelengths. Accordingly, Batchelder does not anticipate amended Claim 1.

Batchelder is directed to an optical component for analyzing the Raman spectrum of a sample. The reference discloses a spectroscopic apparatus with two means (*i.e.*, filters) for selecting a frequency of the spectrum (*see* col. 1, lines 60-64). To this end,

Fig. 1 of Batchelder shows input laser beam 10 transmitted through the dichroic filter 18 to the sample 14. The light reflected from the sample is communicated through the microscope device 20 and the mirror 46 to the dichroic filter 18. Thereafter, the reference discloses two filtering means for the sample-reflected light (*see* col. 4, lines 19-21). In one embodiment, light is directed through the mirrors 74 and 78 to the Fabry-Perot etalon 83 and the filter wheel 84. The Fabry-Perot etalon can slide into and out of the optical path as shown by the arrow 85 (*see* col. 4, lines 24-26). The filter wheel 84 includes several windows each containing a multi-layer dielectric bandpass filter 90 (Fig. 3) covering a different band of the Raman spectrum. Through rotation of the filter wheel 84, a desired filter can be placed in the optical path (*see* col. 4, lines 48-59).

Clearly, the reference fails to disclose “an electro-optical tunable filter” as recited in Claim 1. The filters employed in Batchelder are susceptible to problems that can be overcome by the electro-optical tunable filters described and claimed by Applicant. Hence the differences between the filters disclosed in Batchelder and those claimed herein are significant and cannot be overlooked.

For at least these reasons, Batchelder as evidenced by Rigler does not anticipate or render obvious the invention recited in Claim 1. Each of Claims 2, 5, 6, 9, 10, 13, 14, 17, 18, 25, 26, 29, and 30 is patentable by virtue of its dependence from Claim 1 without reference to the additional patentable limitations contained therein. Therefore, additional reasons for patentability of each dependent claim need not be discussed at this time.

Accordingly, Applicants respectfully request the reconsideration and withdrawal of the anticipation rejections of Claims 1, 2, 5, 6, 9, 10, 13, 14, 17, 18, 25, 26, 29, and 30.

Obviousness Rejection

Claims 3, 4, 7, 8, 11, 12, 15, 16, 19, 20, 23, 24, 27, 28, 31 and 32 stand rejected as allegedly unpatentable over a combination of Batchelder as evidenced by Rigler in view of Treado (U.S. 2002/0113210 A1). Each of Claims 3, 4, 7, 8, 11, 12, 15, 16, 19, 20, 23, 24, 27, 28, 31 and 32 depends, either directly or indirectly, from amended Claim 1 which, as explained, is patentable over Batchelder as evidenced by Rigler. Nothing in the secondary reference overcomes the deficiencies of Batchelder as explained above. Accordingly, Claims 3, 4, 7, 8, 11, 12, 15, 16, 19, 20, 23, 24, 27, 28, 31 and 32 are deemed patentable by virtue of this dependence without reference to the additional patentable limitations contained therein. Therefore, additional reasons for patentability of each of these claims need not be discussed at this time.

Accordingly, Applicants respectfully request the reconsideration and withdrawal of the rejections of Claims 3, 4, 7, 8, 11, 12, 15, 16, 19, 20, 23, 24, 27, 28, 31 and 32.

Claims without specified Grounds of Rejection

Claims 21 and 22 are noticed as being rejected on form PTOL-326 which accompanies the Office Action; however, no basis for rejection of either claim is stated.

CONCLUSION

Applicant respectfully submits that all of the claims are in condition for allowance.

A notice to this effect is respectfully requested.

If any point remains that is deemed best resolved through a telephonic conversation, the Office is hereby requested to contact the undersigned directly.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark C. Comtois', with a long horizontal flourish extending to the right.

Mark C. Comtois

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